

106TH CONGRESS  
1ST SESSION

# H. R. 3146

To amend titles XVIII, XIX, and XXI of the Social Security Act to adjust the Medicare, Medicaid, and children's health insurance programs, as revised by the Balanced Budget Act of 1997.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1999

Mr. BLILEY (for himself, Mr. BILIRAKIS, Mr. TAUZIN, Mr. PICKERING, Mr. BLUNT, Mr. BURR of North Carolina, Mr. GREENWOOD, Mr. UPTON, Mr. SHADEGG, Mr. OXLEY, Mr. ROGAN, Mr. WHITFIELD, Mr. DEAL of Georgia, Mr. LAZIO, and Mr. BRYANT) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend titles XVIII, XIX, and XXI of the Social Security Act to adjust the Medicare, Medicaid, and children's health insurance programs, as revised by the Balanced Budget Act of 1997.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS TO SOCIAL SECUR-**  
 2 **RITY ACT; REFERENCES TO BBA; TABLE OF**  
 3 **CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “Health Care Restoration Act of 1999”.

6 (b) AMENDMENTS TO SOCIAL SECURITY ACT.—Ex-  
 7 cept as otherwise specifically provided, whenever in this  
 8 title an amendment is expressed in terms of an amend-  
 9 ment to or repeal of a section or other provision, the ref-  
 10 erence shall be considered to be made to that section or  
 11 other provision of the Social Security Act.

12 (c) REFERENCES TO BALANCED BUDGET ACT OF  
 13 1997.—In this Act, the term “BBA” means the Balanced  
 14 Budget Act of 1997 (Public Law 105–33).

15 (d) TABLE OF CONTENTS.—The table of contents of  
 16 this Act is as follows:

Sec. 1. Short title; amendments to Social Security Act; references to BBA;  
 table of contents.

**TITLE II—PROVISIONS RELATING TO PART B**

**Subtitle A—Payment for Physician Services**

Sec. 201. Modification of update adjustment factor provisions to reduce update  
 oscillations and require estimate revisions.

Sec. 202. Use of data collected by organizations and entities in determining  
 practice expense relative values.

Sec. 203. Study and report to Congress on resources required to provide safe  
 and effective outpatient cancer therapy.

Sec. 204. Limitation on application of practice expense site-of-service differen-  
 tial; reversion to 1997 practice expense RVU’s for certain serv-  
 ices.

**Subtitle B—Hospital Outpatient Services**

Sec. 211. Outlier adjustment and transitional pass-through for certain medical  
 devices, drugs, and biologicals.

Sec. 212. Establishing a transitional corridor for application of OPD PPS.

- Sec. 213. Hold-harmless for cancer hospitals and small rural hospitals.
- Sec. 214. Annual review process for development of HOPD PPS.

#### Subtitle C—Other

- Sec. 221. 2-year moratorium on therapy caps.
- Sec. 222. Phase-in of PPS for ambulatory surgical centers.
- Sec. 223. Expanding coverage to direct services under telehealth program for medicare beneficiaries participating in certain demonstration projects.
- Sec. 224. Provision for part B add-ons for facilities participating in the NHCMQ demonstration project.
- Sec. 225. Study on effect of credentialing of technologists and sonographers on quality of ultrasound and imaging services.
- Sec. 226. MedPAC study on the complexity of the medicare program and the levels of burdens placed on providers through Federal regulations.
- Sec. 227. Elimination of time limitation on medicare benefits for immunosuppressive drugs.

### TITLE III—PROVISIONS RELATING TO PARTS A AND B

#### Subtitle A—Home Health Services

- Sec. 301. Report on costs of compliance with OASIS data collection requirements.
- Sec. 302. Limitation of OASIS data collection requirements to medicare and medicaid patients.
- Sec. 303. Phase-in and partial elimination of the 15 percent reduction in payments under the PPS for home health services.
- Sec. 304. Refinement of home health agency consolidated billing for durable medical equipment.
- Sec. 305. Use of payments under PPS for home health services for costs associated with the use of telecommunications systems.

#### Subtitle B—Other

- Sec. 311. Permitting reclassification of certain urban hospitals as rural hospitals.
- Sec. 312. MedPAC study on medicare payment for non-physician health professional clinical training in hospitals.

### TITLE V—PROVISIONS RELATING TO PART C (MEDICARE+CHOICE PROGRAM)

#### Subtitle A—Medicare+Choice

- Sec. 501. Phase-in of new risk adjustment methodology.
- Sec. 502. Continued computation and publication of AAPCC data.
- Sec. 503. Changes in Medicare+Choice and medigap enrollment rules.
- Sec. 504. Allowing variation in premium waivers within a service area if Medicare+Choice payment rates vary within the area.
- Sec. 505. Delay in deadline for submission of adjusted community rates and related information.
- Sec. 506. Deeming of Medicare+Choice organization to meet requirements.
- Sec. 507. Reduction in adjustment in national per capita Medicare+Choice growth percentage for 2001 and 2002.

Sec. 508. 3 year extension of medicare cost contracts.  
 Sec. 509. Reducing to 2 years the re-entry period after contract termination.  
 Sec. 510. MedPAC studies relating to risk adjustment.  
 Sec. 511. MedPAC report on medicare MSA (medical savings account) plans.  
 Sec. 512. Miscellaneous changes.

#### Subtitle B—Other Managed Care Provisions

Sec. 521. Medicare competitive pricing demonstration project.  
 Sec. 512. Inapplicability of OASIS to PACE.

#### TITLE VI—MEDICAID

Sec. 601. Making medicaid DSH transition rule permanent.  
 Sec. 602. Increase in DSH allotment for certain States and the District of Columbia.  
 Sec. 603. New prospective payment system for Federally-qualified health centers and rural health clinics.  
 Sec. 604. Parity in reimbursement for certain utilization and quality control services.

#### TITLE VII—STATE CHILDREN’S HEALTH INSURANCE PROGRAM (SCHIP)

Sec. 701. Stabilizing the SCHIP allotment formula.  
 Sec. 702. Increased allotments for territories under the State children’s health insurance program.

## **TITLE II—PROVISIONS RELATING TO PART B Subtitle A—Payment for Physician Services**

### **SEC. 201. MODIFICATION OF UPDATE ADJUSTMENT FACTOR PROVISIONS TO REDUCE UPDATE OSCILLATIONS AND REQUIRE ESTIMATE REVISIONS.**

(a) UPDATE ADJUSTMENT FACTOR.—

(1) IN GENERAL.—Section 1848(d) (42 U.S.C.

1395w-4(d)) is amended—

(A) in paragraph (3)—

1 (i) in the heading, by inserting “FOR  
2 1999 AND 2000” after “UPDATE”;

3 (ii) in subparagraph (A), by striking  
4 “a year beginning with 1999” and insert-  
5 ing “1999 and 2000”; and

6 (iii) in subparagraph (C), by inserting  
7 “and paragraph (4)” after “For purposes  
8 of this paragraph”; and

9 (B) by adding at the end the following new  
10 paragraph:

11 “(4) UPDATE FOR YEARS BEGINNING WITH  
12 2001.—

13 “(A) IN GENERAL.—Unless otherwise pro-  
14 vided by law, subject to the budget-neutrality  
15 factor determined by the Secretary under sub-  
16 section (c)(2)(B)(ii) and subject to adjustment  
17 under subparagraph (F), the update to the sin-  
18 gle conversion factor established in paragraph  
19 (1)(C) for a year beginning with 2001 is equal  
20 to the product of—

21 “(i) 1 plus the Secretary’s estimate of  
22 the percentage increase in the MEI (as de-  
23 fined in section 1842(i)(3)) for the year  
24 (divided by 100), and

1 “(ii) 1 plus the Secretary’s estimate of  
2 the update adjustment factor under sub-  
3 paragraph (B) for the year.

4 “(B) UPDATE ADJUSTMENT FACTOR.—For  
5 purposes of subparagraph (A)(ii), subject to  
6 subparagraph (D), the ‘update adjustment fac-  
7 tor’ for a year is equal (as estimated by the  
8 Secretary) to the sum of the following:

9 “(i) PRIOR YEAR ADJUSTMENT COM-  
10 PONENT.—An amount determined by—

11 “(I) computing the difference  
12 (which may be positive or negative)  
13 between the amount of the allowed ex-  
14 penditures for physicians’ services for  
15 the prior year (as determined under  
16 subparagraph (C)) and the amount of  
17 the actual expenditures for such serv-  
18 ices for that year;

19 “(II) dividing that difference by  
20 the amount of the actual expenditures  
21 for such services for that year; and

22 “(III) multiplying that quotient  
23 by 0.75.

24 “(ii) CUMULATIVE ADJUSTMENT COM-  
25 PONENT.—An amount determined by—

1 “(I) computing the difference  
 2 (which may be positive or negative)  
 3 between the amount of the allowed ex-  
 4 penditures for physicians’ services (as  
 5 determined under subparagraph (C))  
 6 from April 1, 1996, through the end  
 7 of the prior year and the amount of  
 8 the actual expenditures for such serv-  
 9 ices during that period;

10 “(II) dividing that difference by  
 11 actual expenditures for such services  
 12 for the prior year as increased by the  
 13 sustainable growth rate under sub-  
 14 section (f) for the year for which the  
 15 update adjustment factor is to be de-  
 16 termined; and

17 “(III) multiplying that quotient  
 18 by 0.33.

19 “(C) DETERMINATION OF ALLOWED EX-  
 20 PENDITURES.—For purposes of this  
 21 paragraph—

22 “(i) PERIOD UP TO APRIL 1, 1999.—  
 23 The allowed expenditures for physicians’  
 24 services for a period before April 1, 1999,  
 25 shall be the amount of the allowed expendi-

1 tures for such period as determined under  
2 paragraph (3)(C).

3 “(ii) TRANSITION TO CALENDAR YEAR  
4 ALLOWED EXPENDITURES.—Subject to  
5 subparagraph (E), the allowed expendi-  
6 tures for—

7 “(I) the 9-month period begin-  
8 ning April 1, 1999, shall be the Sec-  
9 retary’s estimate of the amount of the  
10 allowed expenditures that would be  
11 permitted under paragraph (3)(C) for  
12 such period; and

13 “(II) the year of 1999, shall be  
14 the Secretary’s estimate of the  
15 amount of the allowed expenditures  
16 that would be permitted under para-  
17 graph (3)(C) for such year.

18 “(iii) YEARS BEGINNING WITH 2000.—  
19 The allowed expenditures for a year (be-  
20 ginning with 2000) is equal to the allowed  
21 expenditures for physicians’ services for  
22 the previous year, increased by the sustain-  
23 able growth rate under subsection (f) for  
24 the year involved.

“(D) RESTRICTION ON UPDATE ADJUSTMENT FACTOR.—The update adjustment factor determined under subparagraph (B) for a year may not be less than -0.07 or greater than 0.03.

“(E) RECALCULATION OF ALLOWED EXPENDITURES FOR UPDATES BEGINNING WITH 2001.—For purposes of determining the update adjustment factor for a year beginning with 2001, the Secretary shall recompute the allowed expenditures for previous periods beginning on or after April 1, 1999, consistent with subsection (f)(3).

“(F) TRANSITIONAL ADJUSTMENT DESIGNED TO PROVIDE FOR BUDGET NEUTRALITY.—Under this subparagraph the Secretary shall provide for an adjustment to the update under subparagraph (A)—

“(i) for each of 2001, 2002, 2003, and 2004, of -0.2 percent; and

“(ii) for 2005 of +0.8 percent.”.

(2) PUBLICATION CHANGE.—

(A) IN GENERAL.—Section 1848(d)(1)(E) (42 U.S.C. 1395w-4(d)(1)(E)) is amended to read as follows:

1           “(E) PUBLICATION AND DISSEMINATION  
2           OF INFORMATION.—The Secretary shall—

3                   “(i) cause to have published in the  
4                   Federal Register not later than November  
5                   1 of each year (beginning with 2000) the  
6                   conversion factor which will apply to physi-  
7                   cians’ services for the succeeding year, the  
8                   update determined under paragraph (4)  
9                   for such succeeding year, and the allowed  
10                  expenditures under such paragraph for  
11                  such succeeding year; and

12                  “(ii) make available to the Medicare  
13                  Payment Advisory Commission and the  
14                  public by March 1 of each year (beginning  
15                  with 2000) an estimate of the conversion  
16                  factor which will apply to physicians’ serv-  
17                  ices for the succeeding year and data used  
18                  in making such estimate.”.

19           (B) MEDPAC REVIEW OF CONVERSION  
20           FACTOR ESTIMATES.—Section 1805(b)(1)(D)  
21           (42 U.S.C. 1395b–6(b)(1)(D)) is amended by  
22           inserting “and including a review of the esti-  
23           mate of the conversion factor submitted under  
24           section 1848(d)(1)(E)(ii)” before the period at  
25           the end.

1 (C) 1-TIME PUBLICATION OF INFORMA-  
2 TION ON TRANSITION.—The Secretary of  
3 Health and Human Services shall cause to have  
4 published in the Federal Register, not later  
5 than 90 days after the date of the enactment of  
6 this section, the Secretary’s determination,  
7 based upon the best available data, of—

8 (i) the allowed expenditures under  
9 subclauses (I) and (II) of section  
10 1848(d)(4)(C)(ii) of the Social Security  
11 Act, as added by subsection (a)(1)(B), for  
12 the 9-month period beginning on April 1,  
13 1999, and for 1999;

14 (ii) the estimated actual expenditures  
15 described in section 1848(d) of such Act  
16 for 1999; and

17 (iii) the sustainable growth rate under  
18 section 1848(f) of such Act (42 U.S.C.  
19 1395w–4(f)) for 2000.

20 (3) CONFORMING AMENDMENTS.—

21 (A) Section 1848 (42 U.S.C. 1395w–4) is  
22 amended—

23 (i) in subsection (d)(1)(A), by insert-  
24 ing “(for years before 2001) and, for years  
25 beginning with 2001, multiplied by the up-

1 date (established under paragraph (4)) for  
 2 the year involved” after “for the year in-  
 3 volved”; and

4 (ii) in subsection (f)(2)(D), by insert-  
 5 ing “or (d)(4)(B), as the case may be”  
 6 after “(d)(3)(B)”.

7 (B) Section 1833(l)(4)(A)(i)(VII) (42  
 8 U.S.C. 1395l(l)(4)(A)(i)(VII)) is amended by  
 9 striking “1848(d)(3)” and inserting “1848(d)”.

10 (b) SUSTAINABLE GROWTH RATES.—Section 1848(f)  
 11 (42 U.S.C. 1395w-4(f)) is amended—

12 (1) by amending paragraph (1) to read as fol-  
 13 lows:

14 “(1) PUBLICATION.—The Secretary shall cause  
 15 to have published in the Federal Register not later  
 16 than—

17 “(A) November 1, 2000, the sustainable  
 18 growth rate for 2000 and 2001; and

19 “(B) November 1 of each succeeding year  
 20 the sustainable growth rate for such succeeding  
 21 year and each of the preceding 2 years.”;

22 (2) in paragraph (2)—

23 (A) in the matter before subparagraph (A),  
 24 by striking “fiscal year 1998)” and inserting

1 “fiscal year 1998 and ending with fiscal year  
2 2000) and a year beginning with 2000”; and

3 (B) in subparagraphs (A) through (D), by  
4 striking “fiscal year” and inserting “applicable  
5 period” each place it appears;

6 (3) in paragraph (3), by adding at the end the  
7 following new subparagraph:

8 “(C) APPLICABLE PERIOD.—The term ‘ap-  
9 plicable period’ means—

10 “(i) a fiscal year, in the case of fiscal  
11 year 1998, fiscal year 1999, and fiscal year  
12 2000; or

13 “(ii) a calendar year with respect to a  
14 year beginning with 2000;

15 as the case may be.”;

16 (4) by redesignating paragraph (3) as para-  
17 graph (4); and

18 (5) by inserting after paragraph (2) the fol-  
19 lowing new paragraph:

20 “(3) DATA TO BE USED.—For purposes of de-  
21 termining the update adjustment factor under sub-  
22 section (d)(4)(B) for a year beginning with 2001,  
23 the sustainable growth rates taken into consideration  
24 in the determination under paragraph (2) shall be  
25 determined as follows:

1           “(A) FOR 2001.—For purposes of such cal-  
2           culations for 2001, the sustainable growth rates  
3           for fiscal year 2000 and the years 2000 and  
4           2001 shall be determined on the basis of the  
5           best data available to the Secretary as of Sep-  
6           tember 1, 2000.

7           “(B) FOR 2002.—For purposes of such cal-  
8           culations for 2002, the sustainable growth rates  
9           for fiscal year 2000 and for years 2000, 2001,  
10          and 2002 shall be determined on the basis of  
11          the best data available to the Secretary as of  
12          September 1, 2001.

13          “(C) FOR 2003 AND SUCCEEDING YEARS.—  
14          For purposes of such calculations for a year  
15          after 2002—

16               “(i) the sustainable growth rates for  
17               that year and the preceding 2 years shall  
18               be determined on the basis of the best data  
19               available to the Secretary as of September  
20               1 of the year preceding the year for which  
21               the calculation is made; and

22               “(ii) the sustainable growth rate for  
23               any year before a year described in clause  
24               (i) shall be the rate as most recently deter-  
25               mined for that year under this subsection.

1 Nothing in this paragraph shall be construed as af-  
 2 fecting the sustainable growth rates established for  
 3 fiscal year 1998 or fiscal year 1999.”.

4 (c) EFFECTIVE DATE.—The amendments made by  
 5 this section shall be effective in determining the conversion  
 6 factor under section 1848(d) of the Social Security Act  
 7 (42 U.S.C. 1395w–4(d)) for years beginning with 2001  
 8 and shall not apply to or affect any update (or any update  
 9 adjustment factor) for any year before 2001.

10 **SEC. 202. USE OF DATA COLLECTED BY ORGANIZATIONS**  
 11 **AND ENTITIES IN DETERMINING PRACTICE**  
 12 **EXPENSE RELATIVE VALUES.**

13 (a) USE.—The Secretary of Health and Human Serv-  
 14 ices shall use, to the maximum extent practicable and con-  
 15 sistent with sound data practices, data collected or devel-  
 16 oped by entities and organizations (other than the Depart-  
 17 ment of Health and Human Services) to supplement the  
 18 data normally collected by that Department in deter-  
 19 mining the practice expense component under section  
 20 1848(c)(2)(C)(ii) of the Social Security Act (42 U.S.C.  
 21 1395w–4(c)(2)(C)(ii)) for purposes of determining relative  
 22 values for payment for physicians’ services under the fee  
 23 schedule under section 1848 of such Act (42 U.S.C.  
 24 1395w–4).

1 (b) REPORT.—The Secretary shall submit to Con-  
2 gress, in connection with the publication of the update  
3 under section 1848(c) of such Act for 2001, a report on  
4 the extent to which the Secretary has used data described  
5 in subsection (a) in making adjustments in relative values  
6 to be applied under such section in 2001 and the reasons  
7 (if any) why the Secretary has not used such data, par-  
8 ticularly in cases in which the data otherwise used are in-  
9 adequate because they are not based upon a large enough  
10 sample size to be statistically reliable.

11 **SEC. 203. STUDY AND REPORT TO CONGRESS ON RE-**  
12 **SOURCES REQUIRED TO PROVIDE SAFE AND**  
13 **EFFECTIVE OUTPATIENT CANCER THERAPY.**

14 (a) STUDY.—The Administrator of the Health Care  
15 Financing Administration shall conduct a nationwide  
16 study to determine the physician and non-physician clin-  
17 ical resources necessary to provide safe outpatient cancer  
18 therapy services and the appropriate payment rates for  
19 such services under the medicare program. In making  
20 such determination, the Secretary shall—

21 (1) shall determine the adequacy of practice ex-  
22 penses associated with the utilization of those clin-  
23 ical resources;

24 (2) shall determine the adequacy of work units  
25 in the practice expense formula; and

1           (3) assess various standards to assure the pro-  
2 vision of safe outpatient cancer therapy services.

3           (b) REPORT TO CONGRESS.—The Administrator,  
4 after consultation with the Medicare Payment Advisory  
5 Commission, shall submit to Congress a report on the  
6 study conducted under subsection (a). The report shall in-  
7 clude recommendations for practice expense adjustments  
8 to the payment methodology under part B of the medicare  
9 program, including the development and inclusion of ade-  
10 quate work units to assure the adequacy of payment  
11 amounts for safe outpatient cancer therapy services. The  
12 study shall also include an estimate of the cost of imple-  
13 menting such recommendations.

14 **SEC. 204. LIMITATION ON APPLICATION OF PRACTICE EX-**  
15 **PENSE SITE-OF-SERVICE DIFFERENTIAL; RE-**  
16 **VERSION TO 1997 PRACTICE EXPENSE RVU'S**  
17 **FOR CERTAIN SERVICES.**

18           (a) IN GENERAL.—Section 1848(c)(2)(C) (42 U.S.C.  
19 1395w-4(c)(2)(C)) is amended by adding at the end the  
20 following new clauses:

21                           “(iv) LIMITATION ON APPLICATION OF  
22 PRACTICE EXPENSE SITE-OF-SERVICE DIF-  
23 FERENTIAL.—No site-of-service differential  
24 shall be applied to relative value units for

1 services which are provided 10 percent or  
2 less in an office setting.

3 “(v) REVERSION TO 1997 RELATIVE  
4 VALUE UNITS.—The schedule established  
5 under this section shall, as of January 1,  
6 2001, revert to reflect only one profes-  
7 sional fee for each CPT-coded service  
8 which is provided 10 percent or less in an  
9 office setting. The Secretary shall utilize  
10 the practice expense relative value units for  
11 those services that were published on No-  
12 vember 22, 1996, and implemented begin-  
13 ning on January 1, 1997.”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 subsection (a) is effective for services furnished on or after  
16 January 1, 2001.

## 17 **Subtitle B—Hospital Outpatient** 18 **Services**

### 19 **SEC. 211. OUTLIER ADJUSTMENT AND TRANSITIONAL PASS-** 20 **THROUGH FOR CERTAIN MEDICAL DEVICES,** 21 **DRUGS, AND BIOLOGICALS.**

22 (a) OUTLIER ADJUSTMENT.—Section 1833(t) (42  
23 U.S.C. 1395l(t)), as added by section 4523(a) of BBA,  
24 is amended—

1           (1) by redesignating paragraphs (5) through  
2           (9) as paragraphs (7) through (11), respectively;  
3           and

4           (2) by inserting after paragraph (4) the fol-  
5           lowing new paragraph:

6           “(5) OUTLIER ADJUSTMENT.—

7                   “(A) IN GENERAL.—The Secretary shall  
8           provide for an additional payment for each cov-  
9           ered OPD service (or group of services) for  
10          which a hospital’s charges, adjusted to cost,  
11          exceed—

12                   “(i) a fixed multiple of the sum of—

13                           “(I) the applicable Medicare  
14           OPD fee schedule amount determined  
15           under paragraph (3)(D), as adjusted  
16           under paragraph (4)(A) (other than  
17           for adjustments under this paragraph  
18           or paragraph (6)); and

19                           “(II) any transitional pass-  
20           through payment under paragraph  
21           (6); and

22                   “(ii) at the option of the Secretary,  
23           such fixed dollar amount as the Secretary  
24           may establish.

1           “(B) AMOUNT OF ADJUSTMENT.—The  
2           amount of the additional payment under sub-  
3           paragraph (A) shall be determined by the Sec-  
4           retary and shall approximate the marginal cost  
5           of care beyond the applicable cutoff point under  
6           such subparagraph.

7           “(C) LIMIT ON AGGREGATE OUTLIER AD-  
8           JUSTMENTS.—

9           “(i) IN GENERAL.—The total of the  
10          additional payments made under this para-  
11          graph for covered OPD services furnished  
12          in a year (as projected or estimated by the  
13          Secretary before the beginning of the year)  
14          may not exceed the applicable percentage  
15          (specified in clause (ii)) of the total pro-  
16          gram payments projected or estimated to  
17          be made under this subsection for all cov-  
18          ered OPD services furnished in that year.  
19          If this paragraph is first applied to less  
20          than a full year, the previous sentence  
21          shall apply only to the portion of such  
22          year.

23          “(ii) APPLICABLE PERCENTAGE.—For  
24          purposes of clause (i), the term ‘applicable  
25          percentage’ means a percentage specified

1 by the Secretary up to (but not to ex-  
2 ceed)—

3 “(I) for a year (or portion of a  
4 year) before 2004, 2.5 percent; and

5 “(II) for 2004 and thereafter,  
6 3.0 percent.”.

7 (b) TRANSITIONAL PASS-THROUGH FOR ADDITIONAL  
8 COSTS OF INNOVATIVE MEDICAL DEVICES, DRUGS, AND  
9 BIOLOGICALS.—Such section is further amended by in-  
10 serting after paragraph (5) the following new paragraph:

11 “(6) TRANSITIONAL PASS-THROUGH FOR ADDI-  
12 TIONAL COSTS OF INNOVATIVE MEDICAL DEVICES,  
13 DRUGS, AND BIOLOGICALS.—

14 “(A) IN GENERAL.—The Secretary shall  
15 provide for an additional payment under this  
16 paragraph for any of the following that are pro-  
17 vided as part of a covered OPD service (or  
18 group of services):

19 “(i) CURRENT ORPHAN DRUGS.—A  
20 drug or biological that is used for a rare  
21 disease or condition with respect to which  
22 the drug or biological has been designated  
23 as an orphan drug under section 526 of  
24 the Federal Food, Drug and Cosmetic Act  
25 if payment for the drug or biological as an

1 outpatient hospital service under this part  
2 was being made on the first date that the  
3 system under this subsection is imple-  
4 mented.

5 “(ii) CURRENT CANCER THERAPY  
6 DRUGS AND BIOLOGICALS.—A drug or bio-  
7 logical that is used in cancer therapy, if  
8 payment for the drug or biological as an  
9 outpatient hospital service under this part  
10 was being made on such first date.

11 “(iii) NEW MEDICAL DEVICES, DRUGS,  
12 AND BIOLOGICALS.—A medical device,  
13 drug, or biological not described in clause  
14 (i) or (ii) if—

15 “(I) payment for the device,  
16 drug, or biological as an outpatient  
17 hospital service under this part was  
18 not being made as of December 31,  
19 1996; and

20 “(II) the cost of the device, drug,  
21 or biological is not insignificant in re-  
22 lation to the OPD fee schedule  
23 amount (as calculated under para-  
24 graph (3)(D)) payable for the service  
25 (or group of services) involved.

1           “(B) LIMITED PERIOD OF PAYMENT.—The  
2           payment under this paragraph with respect to  
3           a medical device, drug, or biological shall only  
4           apply during a period of at least 2 years, but  
5           not more than 3 years, that begins—

6                   “(i) on the first date this subsection is  
7                   implemented in the case of a drug or bio-  
8                   logical described in clause (i) or (ii) of sub-  
9                   paragraph (A) and in the case of a device,  
10                  drug, or biological described in subpara-  
11                  graph (A)(iii) for which payment under  
12                  this part is made as an outpatient hospital  
13                  service before such first date; or

14                  “(ii) in the case of a device, drug, or  
15                  biological described in subparagraph  
16                  (A)(iii) not described in clause (i), on the  
17                  first date on which payment is made under  
18                  this part for the device, drug, or biological  
19                  as an outpatient hospital service.

20           “(C) AMOUNT OF ADDITIONAL PAY-  
21           MENT.—Subject to subparagraph (D)(iii), the  
22           amount of the payment under this paragraph  
23           with respect to a device, drug, or biological pro-  
24           vided as part of a covered OPD service is—

1 “(i) in the case of a drug or biological,  
2 the amount by which the amount deter-  
3 mined under section 1842(o) for the drug  
4 or biological exceeds the portion of the oth-  
5 erwise applicable medicare OPD fee sched-  
6 ule that the Secretary determines is associ-  
7 ated with the drug or biological; or

8 “(ii) in the case of a medical device,  
9 the amount by which the hospital’s charges  
10 for the device, adjusted to cost, exceeds the  
11 portion of the otherwise applicable medi-  
12 care OPD fee schedule that the Secretary  
13 determines is associated with the device.

14 “(D) LIMIT ON AGGREGATE ANNUAL AD-  
15 JUSTMENT.—

16 “(i) IN GENERAL.—The total of the  
17 additional payments made under this para-  
18 graph for covered OPD services furnished  
19 in a year (as projected or estimated by the  
20 Secretary before the beginning of the year)  
21 may not exceed the applicable percentage  
22 (specified in clause (ii)) of the total pro-  
23 gram payments projected or estimated to  
24 be made under this subsection for all cov-  
25 ered OPD services furnished in that year.

1 If this paragraph is first applied to less  
2 than a full year, the previous sentence  
3 shall apply only to the portion of such  
4 year.

5 “(ii) APPLICABLE PERCENTAGE.—For  
6 purposes of clause (i), the term ‘applicable  
7 percentage’ means—

8 “(I) for a year (or portion of a  
9 year) before 2004, 2.5 percent; and

10 “(II) for 2004 and thereafter, a  
11 percentage specified by the Secretary  
12 up to (but not to exceed) 2.0 percent.

13 “(iii) UNIFORM PROSPECTIVE REDUC-  
14 TION IF AGGREGATE LIMIT PROJECTED TO  
15 BE EXCEEDED.—If the Secretary projects  
16 or estimates before the beginning of a year  
17 that the amount of the additional pay-  
18 ments under this paragraph for the year  
19 (or portion thereof) as determined under  
20 clause (i) without regard to this clause)  
21 will exceed the limit established under such  
22 clause, the Secretary shall reduce pro rata  
23 the amount of each of the additional pay-  
24 ments under this paragraph for that year  
25 (or portion thereof) in order to ensure that

1           the aggregate additional payments under  
 2           this paragraph (as so projected or esti-  
 3           mated) do not exceed such limit.”.

4           (c) APPLICATION OF NEW ADJUSTMENTS ON A  
 5 BUDGET NEUTRAL BASIS.—Section 1833(t)(2)(E) (42  
 6 U.S.C. 1395l(t)(2)(E)) is amended by striking “other ad-  
 7 justments, in a budget neutral manner, as determined to  
 8 be necessary to ensure equitable payments, such a outlier  
 9 adjustments or” and inserting “, in a budget neutral man-  
 10 ner, outlier adjustments under paragraph (5) and transi-  
 11 tional pass-through payments under paragraph (6) and  
 12 other adjustments as determined to be necessary to ensure  
 13 equitable payments, such as”.

14           (d) LIMITATION ON JUDICIAL REVIEW FOR NEW AD-  
 15 JUSTMENTS.—Section 1833(t)(11), as redesignated by  
 16 subsection (a)(1), is amended—

17           (1) by striking “and” at the end of subpara-  
 18 graph (C);

19           (2) by striking the period at the end of sub-  
 20 paragraph (D) and inserting “; and”; and

21           (3) by adding at the end the following:

22           “(E) the determination of the fixed mul-  
 23 tiple, or a fixed dollar cutoff amount, the mar-  
 24 ginal cost of care, or applicable percentage  
 25 under paragraph (5) or the determination of in-

1           significance of cost, the duration of the addi-  
 2           tional payments (consistent with paragraph  
 3           (6)(B)), the portion of the Medicare OPD fee  
 4           schedule amount associated with particular de-  
 5           vices, drugs, or biologicals, and the application  
 6           of any pro rata reduction under paragraph  
 7           (6).”.

8           (e) INCLUSION OF MEDICAL DEVICES UNDER SYS-  
 9   TEM.—Section 1833(t) (42 U.S.C. 1395l(t)) is amended—

10           (1) in paragraph (1)(B)(ii), by striking “clause  
 11           (iii)” and inserting “clause (iv)” and by striking  
 12           “but”;

13           (2) by redesignating clause (iii) of paragraph  
 14           (1)(B) as clause (iv) and inserting after clause (ii)  
 15           of such paragraph the following new clause:

16                   “(iii) includes medical devices (such  
 17                   as implantable medical devices); but”; and

18           (3) in paragraph (2)(B), by inserting after “re-  
 19           sources” the following: “and so that a device is clas-  
 20           sified to the group that includes the service to which  
 21           the device relates”.

22           (f) AUTHORIZING PAYMENT WEIGHTS BASED ON  
 23   MEAN HOSPITAL COSTS.—Section 1833(t)(2)(C) (42  
 24   U.S.C. 1395l(t)(2)(C)) is amended by inserting “(or, at  
 25   the election of the Secretary, mean)” after “median”.

1 (g) LIMITING VARIATION OF COSTS OF SERVICES  
 2 CLASSIFIED WITH A GROUP.—Section 1833(t)(2) (42  
 3 U.S.C. 1395l(t)(2)) is amended by adding at the end the  
 4 following: “For purposes of subparagraph (B), items and  
 5 services within a group shall not be treated as ‘comparable  
 6 with respect to the use of resources’ if the highest median  
 7 cost (or mean cost, if elected by the Secretary under sub-  
 8 paragraph (C)) for an item or service within the group  
 9 is more than 2 times greater than the lowest median cost  
 10 (or mean cost, if so elected) for an item or service within  
 11 the group; except that the Secretary may make exceptions  
 12 in unusual cases, such as low volume items and services.”.

13 (h) NO IMPACT ON COPAYMENT.—Section 1833(t)(7)  
 14 (42 U.S.C. 1395l(t)(7)), as redesignated by subsection (a),  
 15 is amended by adding at the end the following new sub-  
 16 paragraph:

17 “(D) COMPUTATION IGNORING OUTLIER  
 18 AND PASS-THROUGH ADJUSTMENTS.—The co-  
 19 payment amount shall be computed under sub-  
 20 paragraph (A) as if the adjustments under  
 21 paragraphs (5) and (6) (and any adjustment  
 22 made under paragraph (2)(E) in relation to  
 23 such adjustments) had not occurred.”.

24 (i) TECHNICAL CORRECTION IN REFERENCE RELAT-  
 25 ING TO HOSPITAL-BASED AMBULANCE SERVICES.—Sec-

tion 1833(t)(9) (42 U.S.C. 1395l(t)(9)), as redesignated by subsection (a), is amended by striking “the matter in subsection (a)(1) preceding subparagraph (A)” and inserting “section 1861(v)(1)(U)”.

(j) EFFECTIVE DATE.—The amendments made by this section shall be effective as if included in the enactment of BBA.

**SEC. 212. ESTABLISHING A TRANSITIONAL CORRIDOR FOR APPLICATION OF OPD PPS.**

(a) IN GENERAL.—Section 1833(t) (42 U.S.C. 1395l(t)), as amended by section 211(a), is further amended—

(1) in paragraph (4), in the matter before subparagraph (A), by inserting “, subject to paragraph (7),” after “is determined”; and

(2) by redesignating paragraphs (7) through (11) as paragraphs (8) through (12), respectively; and

(3) by inserting after paragraph (6), as inserted by section 211(b), the following new paragraph:

“(7) TRANSITIONAL ADJUSTMENT TO LIMIT DECLINE IN PAYMENT.—

“(A) BEFORE 2002.—For covered OPD services furnished before January 1, 2002, for

1           which the PPS amount (as defined in subpara-  
2           graph (D)(i)) is—

3                   “(i) at least 90 percent, but less than  
4                   100 percent, of the pre-BBA amount (as  
5                   defined in subparagraph (D)(ii)), the  
6                   amount of payment under this subsection  
7                   shall be increased by 80 percent of the  
8                   amount of such difference;

9                   “(ii) at least 80 percent, but less than  
10                  90 percent, of the pre-BBA amount, the  
11                  amount of payment under this subsection  
12                  shall be increased by the amount by which  
13                  (I) the product of 0.71 and the pre-BBA  
14                  amount, exceeds (II) the product of 0.70  
15                  and the PPS amount;

16                  “(iii) at least 70 percent, but less  
17                  than 80 percent, of the pre-BBA amount,  
18                  the amount of payment under this sub-  
19                  section shall be increased by the amount  
20                  by which (I) the product of 0.63 and the  
21                  pre-BBA amount, exceeds (II) the product  
22                  of 0.60 and the PPS amount;

23                  “(iv) less than 70 percent of the pre-  
24                  BBA amount, the amount of payment

1 under this subsection shall be increased by  
2 21 percent of the pre-BBA amount.

3 “(B) 2002.—For covered OPD services  
4 furnished during 2002, for which the PPS  
5 amount is—

6 “(i) at least 90 percent, but less than  
7 100 percent, of the pre-BBA amount, the  
8 amount of payment under this subsection  
9 shall be increased by 70 percent of the  
10 amount of such difference;

11 “(ii) at least 80 percent, but less than  
12 90 percent, of the pre-BBA amount, the  
13 amount of payment under this subsection  
14 shall be increased by the amount by which  
15 (I) the product of 0.61 and the pre-BBA  
16 amount, exceeds (II) the product of 0.60  
17 and the PPS amount;

18 “(iii) less than 80 percent of the pre-  
19 BBA amount, the amount of payment  
20 under this subsection shall be increased by  
21 13 percent of the pre-BBA amount.

22 “(C) 2003.—For covered OPD services  
23 furnished during 2003, for which the PPS  
24 amount is—

1 “(i) at least 90 percent, but less than  
 2 100 percent, of the pre-BBA amount, the  
 3 amount of payment under this subsection  
 4 shall be increased by 60 percent of the  
 5 amount of such difference; or

6 “(ii) less than 90 percent of the pre-  
 7 BBA amount, the amount of payment  
 8 under this subsection shall be increased by  
 9 6 percent of the pre-BBA amount.

10 “(D) DEFINITIONS.—For purposes of this  
 11 subparagraph:

12 “(i) PPS AMOUNT.—The term ‘PPS  
 13 amount’ means, with respect to a covered  
 14 OPD service, the amount of payment  
 15 under this title for such service (deter-  
 16 mined without regard to this paragraph).

17 “(ii) PRE-BBA AMOUNT.—The term  
 18 ‘pre-BBA amount’ means, with respect to  
 19 a covered OPD service, the amount that  
 20 would have been paid under this title for  
 21 such service if this subsection did not  
 22 apply.

23 “(E) CONSTRUCTION.—Nothing in this  
 24 paragraph shall be construed to affect the co-  
 25 payment amount under paragraph (5).”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection shall be effective as if included in the enact-  
3 ment of BBA.

4 (c) REPORT ON RURAL AND CANCER HOSPITALS.—  
5 Not later than July 1, 2002, the Secretary of Health and  
6 Human Services shall submit to Congress a report and  
7 recommendations on whether the prospective payment sys-  
8 tem for covered outpatient services furnished under title  
9 XVIII of the Social Security Act should apply to the fol-  
10 lowing providers of services furnishing outpatient items  
11 and services for which payment is made under such title:

12 (1) Medicare-dependent, small rural hospitals  
13 (as defined in section 1886(d)(5)(G)(iv) of such Act  
14 (42 U.S.C. 1395ww(d)(5)(G)(iv))).

15 (2) Sole community hospitals (as defined in sec-  
16 tion 1886(d)(5)(D)(iii) of such Act (42 U.S.C.  
17 1395ww(d)(5)(D)(iii))).

18 (3) Rural health clinics (as defined in section  
19 1861(aa)(2) of such Act (42 U.S.C. 1395x(aa)(2))).

20 (4) Rural referral centers (as so classified  
21 under section 1886(d)(5)(C) of such Act (42 U.S.C.  
22 1395ww(d)(5)(C))).

23 (5) Any other rural hospital that the Secretary  
24 determines appropriate.

1           (6)     Hospitals     described     in     section  
 2     1886(d)(1)(B)(v)   of   such   Act   (42   U.S.C.  
 3     1395ww(d)(1)(B)(v)).

4   **SEC. 213. HOLD-HARMLESS FOR CANCER HOSPITALS AND**  
 5                   **SMALL RURAL HOSPITALS.**

6           (a) IN GENERAL.—Section 1833(t)(10), as so redes-  
 7   ignated by section 201(a)(1), is amended—

8           (1)   by striking “   described   in   section  
 9     1886(d)(1)(B)(v)” in the matter before subpara-  
 10   graph (A);

11          (2) in subparagraphs (A) and (B), by inserting  
 12     “described in section 1886(d)(1)(B)(v)” after “(A)”  
 13     and “(B)”, respectively;

14          (3) by striking “and” at the end of subpara-  
 15   graph (A);

16          (4) by striking the period at the end of sub-  
 17   paragraph (B) and inserting “; and”; and

18          (5) by adding at the end the following new sub-  
 19   paragraph:

20               “(C) notwithstanding paragraph (1), hos-  
 21     pitals described in section 1886(d)(1)(B)(v) and  
 22     hospitals located in a rural area with less than  
 23     100 beds, the amount of payment under the  
 24     system under this subsection for covered OPD  
 25     services furnished before January 1, 2005, may

1 not be less than the amount of payment under  
 2 this part for such services that would have been  
 3 payable under this part under the law as in ef-  
 4 fect immediately before the implementation of  
 5 this subsection (but applying for purposes of  
 6 such law, the copayment amount otherwise ap-  
 7 plicable under paragraph (7)).”.

8 (b) EFFECTIVE DATE.—The amendments made by  
 9 subsection (a) are effective as if included in the enactment  
 10 of the BBA.

11 **SEC. 214. ANNUAL REVIEW PROCESS FOR DEVELOPMENT**  
 12 **OF HOPD PPS.**

13 (a) IN GENERAL.—Section 1833(t)(8)(A) (42 U.S.C.  
 14 1395l(t)(8)(A)), as redesignated by section 211(a)(1), is  
 15 amended—

16 (1) by striking “may periodically review” and  
 17 inserting “shall review not less often than annually”;  
 18 and

19 (2) by adding at the end the following: “The  
 20 Secretary shall accept and use, to the maximum ex-  
 21 tent practicable and consistent with sound data  
 22 practice, data (particularly including data relating to  
 23 drugs, devices, and biologicals) collected or developed  
 24 by entities and organizations (other than the De-  
 25 partment of Health and Human Services) to supple-

1       ment the data collected by the Secretary in such re-  
 2       view and revisions and shall collect new data with  
 3       respect to new technologies. The Secretary shall con-  
 4       sult with an expert outside panel composed of an ap-  
 5       propriate selection of representatives of providers to  
 6       review revisions proposed to be made by the Sec-  
 7       retary.”.

8       (b) EFFECTIVE DATES.—The Secretary of Health  
 9       and Human Services shall first conduct the annual review  
 10      under the amendment made by subsection (a)(1) in 2001  
 11      for application in 2002 and the amendment made by sub-  
 12      section (a)(2) takes effect on the date of the enactment  
 13      of this Act.

## 14                                      **Subtitle C—Other**

### 15      **SEC. 221. 2-YEAR MORATORIUM ON THERAPY CAPS.**

16      (a) MORATORIUM.—

17              (1) IN GENERAL.—Section 1833(g) (42 U.S.C.  
 18      1395l(g)) is amended—

19                      (A) in paragraphs (1) and (3), by striking  
 20              “In the case” each place it appears and insert-  
 21              ing “Subject to paragraph (4), in the case”;  
 22              and

23                      (B) by adding at the end the following:

24              “(4) This subsection shall not apply to expenses in-  
 25      curred in 2000 and 2001.”.

1           (2) EFFECTIVE DATE.—The amendments made  
2       by paragraph (1) shall apply to expenses incurred on  
3       or after January 1, 2000.

4       (b) REVISION OF REPORT.—

5           (1) IN GENERAL.—Section 4541(d)(2) of the  
6       Balanced Budget Act of 1997 (42 U.S.C. 1395l  
7       note) is amended to read as follows:

8           “(2) REPORT.—By not later than January 1,  
9       2001, the Secretary of Health and Human Services  
10      shall submit to Congress a report that includes rec-  
11      ommendations on—

12           “(A) the establishment of a mechanism for  
13      assuring appropriate utilization of outpatient  
14      physical therapy services, outpatient occupa-  
15      tional therapy services, and speech-language pa-  
16      thology services that are covered under the  
17      medicare program under title XVIII of the So-  
18      cial Security Act (42 U.S.C. 1395); and

19           “(B) the establishment of an alternative  
20      payment policy for such services based on clas-  
21      sification of individuals by diagnostic category,  
22      functional status, prior use of services (in both  
23      inpatient and outpatient settings), and such  
24      other criteria as the Secretary determines ap-  
25      propriate, in place of the uniform dollar limita-

1           tions specified in section 1833(g) of such Act,  
2           as amended by paragraph (1).

3       The recommendations shall include how such a  
4       mechanism or policy might be implemented in a  
5       budget-neutral manner.”.

6           (2) EFFECTIVE DATE.—The amendment made  
7       by paragraph (1) shall take effect as if included in  
8       the enactment of section 4541 of the Balanced  
9       Budget Act of 1997 (Public Law 105–33; 111 Stat.  
10      454).

11      (c) STUDY AND REPORT ON UTILIZATION.—

12           (1) STUDY.—

13           (A) IN GENERAL.—The Secretary of  
14       Health and Human Services shall conduct a  
15       study which compares—

16                   (i) utilization patterns (including na-  
17                   tionwide patterns, and patterns by region,  
18                   types of settings, and diagnosis or condi-  
19                   tion) of outpatient physical therapy serv-  
20                   ices, outpatient occupational therapy serv-  
21                   ices, and speech-language pathology serv-  
22                   ices that are covered under the medicare  
23                   program under title XVIII of the Social  
24                   Security Act (42 U.S.C. 1395) and pro-  
25                   vided on or after January 1, 2000; with

1 (ii) such patterns for such services  
2 that were provided in 1998 and 1999.

3 (B) REVIEW OF CLAIMS.—In conducting  
4 the study under this subsection the Secretary of  
5 Health and Human Services shall review a sta-  
6 tistically significant number of claims for reim-  
7 bursement for the services described in sub-  
8 paragraph (A).

9 (2) REPORT.—Not later than March 31, 2001,  
10 the Secretary of Health and Human Services shall  
11 submit a report to Congress on the study conducted  
12 under paragraph (1), together with any rec-  
13 ommendations for legislation that the Secretary de-  
14 termines to be appropriate as a result of such study.

15 **SEC. 222. PHASE-IN OF PPS FOR AMBULATORY SURGICAL**  
16 **CENTERS.**

17 If the Secretary of Health and Human Services im-  
18 plements a revised prospective payment system for serv-  
19 ices of ambulatory surgical facilities under part B of title  
20 XVIII of the Social Security Act, prior to incorporating  
21 data from the 1999 Medicare cost survey, such system  
22 shall be implemented consistent with the following prin-  
23 ciples:

24 (1) PHASE-IN.—The system shall provide that,  
25 in the first year (or similar period) of its implemen-

1       tation, only a proportion (specified by the Secretary  
 2       and not to exceed  $\frac{1}{3}$ ) of the payment for such serv-  
 3       ices shall be made in accordance with such system  
 4       and the remainder shall be made in accordance with  
 5       current regulations, and in the following year a pro-  
 6       portion (specified by the Secretary and not to exceed  
 7        $\frac{2}{3}$ ) of the payment for such services shall be made  
 8       under such system.

9               (2) BUDGET NEUTRALITY.—The system shall  
 10       be designed so that aggregate payments under such  
 11       part for such services after the system is imple-  
 12       mented shall approximate the aggregate payments  
 13       that would have been made under such part for such  
 14       services if the system had not been implemented.

15 **SEC. 223. EXPANDING COVERAGE TO DIRECT SERVICES**  
 16 **UNDER TELEHEALTH PROGRAM FOR MEDI-**  
 17 **CARE BENEFICIARIES PARTICIPATING IN**  
 18 **CERTAIN DEMONSTRATION PROJECTS.**

19       Section 4206 of BBA (42 U.S.C. 1395l note) is  
 20 amended by adding at the end the following new sub-  
 21 section:

22       “(e) EXPANDING COVERAGE TO DIRECT SERVICES  
 23 FOR MEDICARE BENEFICIARIES PARTICIPATING IN CER-  
 24 TAIN DEMONSTRATION PROJECTS.—

1           “(1) IN GENERAL.—Not later than January 1,  
2           2000, the Secretary shall make payments from the  
3           Federal Supplementary Medical Insurance Trust  
4           Fund under part B of such title in accordance with  
5           a payment methodology specified by the Secretary  
6           for direct professional services furnished before Jan-  
7           uary 1, 2005, by a physician or practitioner de-  
8           scribed in subsection (a) via telecommunications sys-  
9           tems if—

10                   “(A) payment may be made under such  
11                   part if the service were provided in person, and

12                   “(B) the beneficiary is participating in a  
13                   demonstration project receiving funds from the  
14                   Health Care Financing Administration or the  
15                   Health Resources and Services Administration.

16           Such services shall include the broadest possible  
17           range of billing codes as determined appropriate by  
18           the Secretary.

19           “(2) STUDY.—The Secretary shall conduct a  
20           study of the effectiveness of the use of telemedicine  
21           services in delivering health care to beneficiaries.  
22           The study also shall examine the desirability of per-  
23           mitting billing for direct services across all settings.  
24           Not later than 3 years after the date of the enact-

1       ment of this subsection, the Secretary shall submit  
2       to Congress a report on such study.”.

3   **SEC. 224. PROVISION FOR PART B ADD-ONS FOR FACILI-**  
4                   **TIES PARTICIPATING IN THE NHCMQ DEM-**  
5                   **ONSTRATION PROJECT.**

6       (a) IN GENERAL.—Section 1888(e)(3) (42 U.S.C.  
7   1395yy(e)(3)), as added by section 4432(a) of BBA, is  
8   amended—

9               (1) in subparagraph (A)—

10               (A) in clause (i), by inserting “or, in the  
11               case of a facility participating in the Nursing  
12               Home Case-Mix and Quality Demonstration  
13               (RUGS–III), the RUGS–III rate received by  
14               the facility during the cost reporting period be-  
15               ginning in 1997” after “to nonsettled cost re-  
16               ports”; and

17               (B) in clause (ii), by striking “furnished  
18               during such period” and inserting “furnished  
19               during the applicable cost reporting period de-  
20               scribed in clause (i)”.

21               (2) in subparagraph (B), to read as follows:

22               “(B) UPDATE TO FIRST COST REPORTING  
23               PERIOD.—The Secretary shall update the  
24               amount determined under subparagraph (A),  
25               for each cost reporting period after the applica-

1           ble cost reporting period described in subpara-  
 2           graph (A)(i) and up to the first cost reporting  
 3           period by a factor equal to the skilled nursing  
 4           facility market basket percentage increase  
 5           minus 1 percentage point (except that for the  
 6           cost reporting period beginning in fiscal year  
 7           2001, the factor shall be equal to such market  
 8           basket percentage plus 0.8 percentage point).”.

9           (b) EFFECTIVE DATE.—The amendments made by  
 10          subsection (a) shall be effective as if included in the enact-  
 11          ment of section 4432(a) of BBA.

12   **SEC. 225. STUDY ON EFFECT OF CREDENTIALING OF TECH-**  
 13                           **NOLOGISTS AND SONOGRAPHERS ON QUAL-**  
 14                           **ITY OF ULTRASOUND AND IMAGING SERV-**  
 15                           **ICES.**

16          (a) STUDY.—The Administrator for Health Care Pol-  
 17          icy and Research shall provide for a study that compares  
 18          the differences in quality of ultrasound and other imaging  
 19          services (including error rates and resulting complications)  
 20          furnished under the medicare and medicaid programs be-  
 21          tween such services furnished by individuals who are  
 22          credentialed by private entities or organizations and by  
 23          those who are not so credentialed. Such study shall exam-  
 24          ine and evaluate differences in error rates and patient out-  
 25          comes as a result of the differences in credentialing.

1 (b) REPORT.—By not later than two years after the  
2 date of the enactment of this Act, the Administrator shall  
3 submit a report to Congress on the study conducted under  
4 subsection (a).

5 **SEC. 226. MEDPAC STUDY ON THE COMPLEXITY OF THE**  
6 **MEDICARE PROGRAM AND THE LEVELS OF**  
7 **BURDENS PLACED ON PROVIDERS THROUGH**  
8 **FEDERAL REGULATIONS.**

9 (a) STUDY.—The Medicare Payment Advisory Com-  
10 mission shall undertake a comprehensive study to review  
11 the regulatory burdens placed on all classes of health care  
12 providers under parts A and B of the medicare program  
13 under title XVIII of the Social Security Act and to deter-  
14 mine the costs these burdens impose on the nation's health  
15 care system. The study shall also examine the complexity  
16 of the current regulatory system and its impact on pro-  
17 viders.

18 (b) REPORT.—Not later than December 31, 2001,  
19 the Commission shall submit to Congress a report on the  
20 study conducted under subsection (a). The report shall in-  
21 clude recommendations regarding—

22 (1) how the Health Care Financing Administra-  
23 tion can reduce the regulatory burdens placed on pa-  
24 tients and providers; and

1           (2) legislation that may be appropriate to re-  
 2       duce the complexity of the medicare program, in-  
 3       cluding improvement of the rules regarding billing,  
 4       compliance, and fraud and abuse.

5 **SEC. 227. ELIMINATION OF TIME LIMITATION ON MEDI-**  
 6 **CARE BENEFITS FOR IMMUNOSUPPRESSIVE**  
 7 **DRUGS.**

8       (a) IN GENERAL.—Section 1861(s)(2)(J) of the So-  
 9       cial Security Act (42 U.S.C. 1395x(s)(2)(J)) is amended  
 10      by striking “, but only” and all that follows up to the semi-  
 11      colon at the end.

12      (b) EFFECTIVE DATE.—The amendment made by  
 13      subsection (a) shall apply to drugs furnished on or after  
 14      October 1, 2000.

15 **TITLE III—PROVISIONS**  
 16 **RELATING TO PARTS A AND B**  
 17 **Subtitle A—Home Health Services**

18 **SEC. 301. REPORT ON COSTS OF COMPLIANCE WITH OASIS**  
 19 **DATA COLLECTION REQUIREMENTS.**

20      (a) REPORT TO CONGRESS.—

21           (1) IN GENERAL.—Not later than 90 days after  
 22      the date of the enactment of this Act, the Secretary  
 23      of Health and Human Services shall submit to Con-  
 24      gress and the Comptroller General of the United  
 25      States a report on matters described in paragraph

1 (2) with respect to the data collection requirement of  
2 patients of such agencies under the Outcome and  
3 Assessment Information Set (OASIS) standard as  
4 part of the comprehensive assessment of patients.

5 (2) MATTERS STUDIED.—For purposes of para-  
6 graph (1), the matters described in this paragraph  
7 include the following:

8 (A) An assessment of the costs incurred by  
9 medicare home health agencies in complying  
10 with such data collection requirement.

11 (B) An analysis of the effect of such data  
12 collection requirement on the privacy interests  
13 of patients from whom data is collected.

14 (3) GAO AUDIT.—The Comptroller General of  
15 the United States shall conduct an independent  
16 audit of the costs described in paragraph (2)(A).  
17 Not later than 180 days after receipt of the report  
18 under paragraph (1), the Comptroller General shall  
19 submit to Congress a report describing the Comp-  
20 troller General’s findings with respect to such audit,  
21 and shall include comments on the report submitted  
22 to Congress by the Secretary of Health and Human  
23 Services under paragraph (1).

24 (b) DEFINITIONS.—In this section:

1           (1) COMPREHENSIVE ASSESSMENT OF PA-  
 2           TIENTS.—The term “comprehensive assessment of  
 3           patients” means the rule published by the Health  
 4           Care Financing Administration that requires, as a  
 5           condition of participation in the medicare program,  
 6           a home health agency to provide a patient-specific  
 7           comprehensive assessment that accurately reflects  
 8           the patient’s current status and that incorporates  
 9           the Outcome and Assessment Information Set  
 10          (OASIS).

11          (2) OUTCOME AND ASSESSMENT INFORMATION  
 12          SET.—The term “Outcome and Assessment Infor-  
 13          mation Set” means the standard provided under the  
 14          rule relating to data items that must be used in con-  
 15          ducting a comprehensive assessment of patients.

16 **SEC. 302. LIMITATION OF OASIS DATA COLLECTION RE-**  
 17 **QUIREMENTS TO MEDICARE AND MEDICAID**  
 18 **PATIENTS.**

19          Effective as if included in the enactment of the Bal-  
 20          anced Budget Act of 1997 (Public Law 105–33), section  
 21          4602(e) of such Act (42 U.S.C. 1395fff note) is amended  
 22          by adding at the end the following new sentence: “Not-  
 23          withstanding any provision of section 1891 of the Social  
 24          Security Act (42 U.S.C. 1395bbb) to the contrary, the  
 25          Secretary may only require the submission of additional

1 information under this subsection with respect to individ-  
 2 uals who are entitled to benefits under parts A, B, or C  
 3 of title XVIII of such Act, or an individual eligible for  
 4 medical assistance under the State plan under title XIX  
 5 of such Act.”.

6 **SEC. 303. PHASE-IN AND PARTIAL ELIMINATION OF THE 15**  
 7 **PERCENT REDUCTION IN PAYMENTS UNDER**  
 8 **THE PPS FOR HOME HEALTH SERVICES.**

9 Section 1895(b)(3)(A) (42 U.S.C. 1395fff(b)(3)(A))  
 10 (as amended by section 5101 of the Tax and Trade Relief  
 11 Extension Act of 1998 (contained in division J of Public  
 12 Law 105–277)) is amended—

13 (1) in clause (i)—

14 (A) by striking the period at the end of the  
 15 first sentence and the second sentence and in-  
 16 serting the following: “as follows:

17 “(I) Such amount (or amounts)  
 18 shall initially be based on the most  
 19 current audited cost report data avail-  
 20 able to the Secretary and shall be  
 21 computed in a manner so that the  
 22 total amounts payable under the sys-  
 23 tem for fiscal year 2001 shall be equal  
 24 to the total amount that would have  
 25 been made if the system had not been

1 in effect, but if the reduction in limits  
2 described in clause (ii) (applied by  
3 substituting ‘5’ for ‘12.5’) had been in  
4 effect.

5 “(II) For fiscal year 2002, such  
6 amount (or amounts) shall be equal to  
7 the amount (or amounts) that would  
8 have been determined under subclause  
9 (I) if the reduction in limits described  
10 in clause (ii) (applied by substituting  
11 ‘10’ for ‘12.5’) had been in effect for  
12 fiscal year 2001, and updated under  
13 subparagraph (B) for fiscal year  
14 2002.

15 “(II) For fiscal year 2003, such  
16 amount (or amounts) shall be equal to  
17 the amount (or amounts) that would  
18 have been determined under subclause  
19 (I) if the reduction in limits described  
20 in clause (ii) had been in effect for  
21 fiscal year 2001, and updated under  
22 subparagraph (B) for fiscal years  
23 2002 and 2003.”; and

1 (B) by striking “Such amount” in the  
 2 third sentence and inserting “Each such  
 3 amount”; and  
 4 (2) in clause (ii), by striking “15 percent” and  
 5 inserting “12.5 percent”.

6 **SEC. 304. REFINEMENT OF HOME HEALTH AGENCY CON-**  
 7 **SOLIDATED BILLING FOR DURABLE MEDICAL**  
 8 **EQUIPMENT.**

9 (a) IN GENERAL.—Section 1842(a)(6)(F) (42 U.S.C.  
 10 1395u(a)(6)(F)), as amended by section 4603(c)(2)(B) of  
 11 BBA, is amended by inserting “(including medical sup-  
 12 plies but excluding durable medical equipment to the ex-  
 13 tent provided for in section 1861(m)(5))” after “home  
 14 health services”.

15 (b) CONFORMING AMENDMENT.—Section  
 16 1862(a)(21) (42 U.S.C. 1395y(a)(21)) is amended by in-  
 17 serting “(including medical supplies but excluding durable  
 18 medical equipment to the extent provided for in section  
 19 1861(m)(5))” after “home health services”.

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section apply to services furnished on or after the date  
 22 of the enactment of this Act.

1 **SEC. 305. USE OF PAYMENTS UNDER PPS FOR HOME**  
2 **HEALTH SERVICES FOR COSTS ASSOCIATED**  
3 **WITH THE USE OF TELECOMMUNICATIONS**  
4 **SYSTEMS.**

5 (a) IN GENERAL.—Section 1895(b) (42 U.S.C.  
6 1395fff(b)) (as added by section 4603(a) of the Balanced  
7 Budget Act of 1997 and amended by section 5101 of the  
8 Tax and Trade Relief Extension Act of 1998 (contained  
9 in division J of Public Law 105–277)) is amended by add-  
10 ing at the end the following new paragraph:

11 “(7) USE OF TELECOMMUNICATIONS SYS-  
12 TEMS.—A home health agency receiving payment  
13 under the system under this subsection shall be per-  
14 mitted by the Secretary to use such payments to  
15 cover the cost of services, training, and supervision  
16 when they are provided to beneficiaries under this  
17 title in that beneficiary’s place of residence via tele-  
18 communication systems. The payment available to  
19 the agency under such system shall be the same as  
20 it would be if the telecommunications systems were  
21 not used. Such telecommunications systems may not  
22 be substituted for services required to establish or  
23 maintain eligibility for home health services under  
24 section 1814(a)(2)(C) or 1835(a)(2)(A).”.

25 (b) EFFECTIVE DATE.—The amendment made by  
26 subsection (a) applies with respect to items and services

1 furnished on or after the date of the enactment of this  
 2 Act.

### 3 **Subtitle B—Other**

#### 4 **SEC. 311. PERMITTING RECLASSIFICATION OF CERTAIN** 5 **URBAN HOSPITALS AS RURAL HOSPITALS.**

6 (a) IN GENERAL.—Section 1886(d)(8) (42 U.S.C.  
 7 1395ww(d)(8)) is amended by adding at the end the fol-  
 8 lowing new subparagraph:

9 “(E)(i) For purposes of this subsection  
 10 and section 1833(t), not later than 60 days  
 11 after the receipt of an application from a sub-  
 12 section (d) hospital described in clause (ii), the  
 13 Secretary shall treat the hospital as being lo-  
 14 cated in the rural area (as defined in such  
 15 paragraph (2)(D)) of the State in which the  
 16 hospital is located.

17 “(ii) For purposes of clause (i), a sub-  
 18 section (d) hospital described in this clause is a  
 19 subsection (d) hospital that is located in an  
 20 urban area (as defined in paragraph (2)(D))  
 21 and satisfies any of the following criteria:

22 “(I) The hospital is located in a  
 23 rural census tract of a metropolitan  
 24 statistical area (as determined under  
 25 the Goldsmith Modification, as pub-

1                   lished in the Federal Register on Feb-  
2                   ruary 27, 1992 (57 FR 6725)).

3                   “(II) The hospital is located in  
4                   an area designated by any law or reg-  
5                   ulation of such State as a rural area  
6                   (or is designated by such State as a  
7                   rural hospital).

8                   “(iii) The hospital would qualify as a  
9                   sole community hospital under paragraph  
10                  (5)(D) or as a rural or regional or national  
11                  referral center under paragraph (5)(C) if  
12                  the hospital were located in a rural area.

13                  “(iv) The hospital meets such other  
14                  criteria as the Secretary may specify.”.

15           (b)           CONFORMING           CHANGE.—Section  
16 1820(c)(2)(B)(i) (42 U.S.C. 1395i-4(c)(2)(B)(i)) is  
17 amended by inserting “or is treated as being located in  
18 a rural area pursuant to section 1886(d)(8)(E)” after  
19 “section 1886(d)(2)(D)).”.

20           (c) EFFECTIVE DATE.—The amendments made by  
21 this section shall become effective on January 1, 2000.

1 **SEC. 312. MEDPAC STUDY ON MEDICARE PAYMENT FOR**  
 2 **NON-PHYSICIAN HEALTH PROFESSIONAL**  
 3 **CLINICAL TRAINING IN HOSPITALS.**

4 (a) IN GENERAL.—The Medicare Payment Advisory  
 5 Commission shall conduct a study on medicare payment  
 6 policy with respect to graduate clinical training of dif-  
 7 ferent classes of non-physician health care professionals  
 8 (such as nurses, allied health professionals, physician as-  
 9 sistants, and psychologists) and the basis for any dif-  
 10 ferences in treatment among such classes.

11 (b) REPORT.—The Commission shall submit a report  
 12 to Congress on the study conducted under subsection (a)  
 13 not later than 18 months after the date of the enactment  
 14 of this Act.

15 **TITLE V—PROVISIONS RELAT-**  
 16 **ING TO PART C**  
 17 **(MEDICARE+CHOICE PRO-**  
 18 **GRAM)**

19 **Subtitle A—Medicare+Choice**

20 **SEC. 501. PHASE-IN OF NEW RISK ADJUSTMENT METHOD-**  
 21 **LOGY.**

22 Section 1853(a)(3)(C) (42 U.S.C. 1395w-  
 23 23(a)(3)(C)) is amended—

24 (1) by redesignating the first sentence as clause  
 25 (i) with the heading “IN GENERAL.—” and appro-  
 26 priate indentation; and

1           (2) by adding at the end the following new  
2       clause:

3                       “(ii) PHASE-IN.—Subject to clause  
4                       (iii)(II), such risk adjustment methodology  
5                       shall be implemented in a phased-in man-  
6                       ner so that the new methodology applies  
7                       only to—

8                               “(I) 10 percent of the payment  
9                               amount in 2000, 2001, 2002, and  
10                              2003;

11                             “(II) 50 percent of such amount  
12                             in 2004;

13                             “(III) 75 percent of such amount  
14                             in 2005; and

15                             “(IV) 100 percent of such  
16                             amount in any subsequent year.

17                       “(iii) REQUIREMENT AND CONTIN-  
18                       GENCY.—

19                             “(I) REQUIREMENT.—The Sec-  
20                             retary shall provide for the application  
21                             of data from multiple settings (includ-  
22                             ing hospital outpatient settings) in ap-  
23                             plying the risk methodology in years  
24                             beginning with 2004.

1                   “(II) CONTINGENCY.—The per-  
 2                   cent applied under clause (ii) shall not  
 3                   exceed 10 percent in a year after  
 4                   2003 unless the Secretary is using  
 5                   data from multiple settings (including  
 6                   hospital outpatient settings) in apply-  
 7                   ing the risk methodology in that  
 8                   year.”.

9   **SEC. 502. CONTINUED COMPUTATION AND PUBLICATION**  
 10                   **OF AAPCC DATA.**

11           (a) IN GENERAL.—Section 1853(b) (42 U.S.C.  
 12 1395w-23(b)) is amended by adding at the end the fol-  
 13 lowing new paragraph:

14                   “(4) CONTINUED COMPUTATION AND PUBLICA-  
 15                   TION OF COUNTY-SPECIFIC PER CAPITA FEE-FOR-  
 16                   SERVICE EXPENDITURE INFORMATION.—The Sec-  
 17                   retary, through the Chief Actuary of the Health  
 18                   Care Financing Administration, shall provide for the  
 19                   computation and publication, on an annual basis at  
 20                   the time of publication of the annual  
 21                   Medicare+Choice capitation rates, of information on  
 22                   the level of the average annual per capita costs (de-  
 23                   scribed in section 1876(a)(4)) for each  
 24                   Medicare+Choice payment area.”.

1 (b) EFFECTIVE DATE.—The amendment made by  
 2 subsection (a) shall take effect on the date of the enact-  
 3 ment of this Act and apply to publications of the annual  
 4 Medicare+Choice capitation rates made on or after such  
 5 date.

6 **SEC. 503. CHANGES IN MEDICARE+CHOICE AND MEDIGAP**  
 7 **ENROLLMENT RULES.**

8 (a) PERMITTING ENROLLMENT IN ALTERNATIVE  
 9 MEDICARE+CHOICE PLANS IN CASE OF INVOLUNTARY  
 10 TERMINATION OF MEDICARE+CHOICE ENROLLMENT.—  
 11 Section 1851(e)(4) (42 U.S.C. 1395w–21(e)(4)) is amend-  
 12 ed by striking subparagraph (A) and inserting the fol-  
 13 lowing:

14 “(A)(i) the certification of the organization  
 15 or plan under this part has been terminated, or  
 16 the organization or plan has notified the indi-  
 17 vidual of an impending termination of such cer-  
 18 tification; or

19 “(ii) the organization has terminated or  
 20 otherwise discontinued providing the plan in the  
 21 area in which the individual resides, or has no-  
 22 tified the individual of an impending termi-  
 23 nation or discontinuation of such plan;”.

1 (b) CONFORMING MEDIGAP AMENDMENT.—Section  
 2 1882(s)(3)(A) (42 U.S.C. 1395ss(s)(3)(A)) is amended, in  
 3 the matter following clause (iii)—

4 (1) by inserting “(or, if elected by the indi-  
 5 vidual, the date of notification of the individual or  
 6 the Secretary by the plan or organization of the im-  
 7 pending termination or discontinuance of the plan in  
 8 the area in which the individual resides)” after “the  
 9 date of the termination of enrollment described in  
 10 such subparagraph”; and

11 (2) by inserting “(or the date of such notifica-  
 12 tion)” after “the date of termination or  
 13 disenrollment”.

14 **SEC. 504. ALLOWING VARIATION IN PREMIUM WAIVERS**  
 15 **WITHIN A SERVICE AREA IF**  
 16 **MEDICARE+CHOICE PAYMENT RATES VARY**  
 17 **WITHIN THE AREA.**

18 (a) IN GENERAL.—Section 1854(c) (42 U.S.C.  
 19 1395w–24(c)) is amended—

20 (1) by striking “The” and inserting “Subject to  
 21 paragraph (2), the”;

22 (2) by redesignating the first sentence as a  
 23 paragraph (1) with an appropriate indentation and  
 24 the heading “IN GENERAL.—”; and

1           (3) by adding at the end the following new  
2 paragraph:

3           “(2) VARIATION IN PREMIUM WAIVER PER-  
4 MITTED.—A Medicare+Choice organization may  
5 waive part or all of a premium described in para-  
6 graph (1) for one or more Medicare+Choice pay-  
7 ment areas within its service area if the annual  
8 Medicare+Choice capitation rates under section  
9 1853(c) vary between such payment area and other  
10 payment areas within such service area.”.

11       (b) EFFECTIVE DATE.—The amendments made by  
12 subsection (a) apply to premiums for contract years begin-  
13 ning on or after January 1, 2001.

14 **SEC. 505. DELAY IN DEADLINE FOR SUBMISSION OF AD-**  
15 **JUSTED COMMUNITY RATES AND RELATED**  
16 **INFORMATION.**

17       (a) DELAY IN DEADLINE FOR SUBMISSION OF AD-  
18 JUSTED COMMUNITY RATES AND RELATED INFORMA-  
19 TION.—Section 1854(a)(1) (42 U.S.C. 1395w–24(a)(1)) is  
20 amended by striking “May 1” and inserting “July 1”.

21       (b) ADJUSTMENT IN INFORMATION DISCLOSURE  
22 PROVISIONS.—Section 1851(d)(2)(A)(ii) (42 U.S.C.  
23 1395w–21(d)(2)(A)(ii)) is amended by inserting after “in-  
24 formation described in paragraph (4) concerning such  
25 plans” the following: “, to the extent such information is

1 available at the time of preparation of the material for  
2 mailing”.

3 **SEC. 506. DEEMING OF MEDICARE+CHOICE ORGANIZATION**  
4 **TO MEET REQUIREMENTS.**

5 Section 1852(e)(4) (42 U.S.C. 1395w-22(e)(4)) is  
6 amended to read as follows:

7 “(4) TREATMENT OF ACCREDITATION.—The  
8 Secretary shall provide that a Medicare+Choice or-  
9 ganization is deemed to meet requirements of para-  
10 graphs (1) and (2) of this subsection and subsection  
11 (h) (relating to confidentiality and accuracy of en-  
12 rollee records) if the organization is accredited (and  
13 periodically reaccredited) by a private accrediting or-  
14 ganization under a process that the Secretary has  
15 determined assures that the accrediting organization  
16 applies standards that meet or exceed the standards  
17 established under section 1856 to carry out the re-  
18 spective requirements. The Secretary shall deter-  
19 mine, within 90 days after the date the Secretary re-  
20 ceives an application by a private accrediting organi-  
21 zation, whether the process of the private accrediting  
22 organization meets the requirements of the pre-  
23 ceding sentence using the criteria specified in section  
24 1865(b)(2). The Secretary shall, using the process  
25 described in section 1865(b), deem a

1 Medicare+Choice organization that is so accredited  
 2 as meeting the requirements of paragraphs (1) and  
 3 (2) of this subsection and subsection (h).”

4 **SEC. 507. REDUCTION IN ADJUSTMENT IN NATIONAL PER**  
 5 **CAPITA MEDICARE+CHOICE GROWTH PER-**  
 6 **CENTAGE FOR 2001 AND 2002.**

7 Section 1853(c)(6)(B) (42 U.S.C. 1395w-  
 8 23(c)(6)(B)) is amended in clauses (iv) and (v) by striking  
 9 “0.5 percentage points” and inserting “0.3 percentage  
 10 points”.

11 **SEC. 508. 3 YEAR EXTENSION OF MEDICARE COST CON-**  
 12 **TRACTS.**

13 Section 1876(h)(5)(B) (42 U.S.C.  
 14 1395mm(h)(5)(B)) is amended by striking “2002” and in-  
 15 serting “2005”.

16 **SEC. 509. REDUCING TO 2 YEARS THE RE-ENTRY PERIOD**  
 17 **AFTER CONTRACT TERMINATION.**

18 (a) IN GENERAL.—Section 1857(c)(4) (42 U.S.C.  
 19 1395w-27(c)(4)) is amended by striking “5-year period”  
 20 and inserting “2-year period”.

21 (b) EFFECTIVE DATE.—The amendment made by  
 22 subsection (a) applies to contract terminations occurring  
 23 before, on, or after the date of the enactment of this Act.

1 **SEC. 510. MEDPAC STUDIES RELATING TO RISK ADJUST-**  
 2 **MENT.**

3 (a) STUDY.—The Medicare Payment Advisory Com-  
 4 mission established under section 1805 of the Social Secu-  
 5 rity Act (42 U.S.C. 1395b–6) (in this section referred to  
 6 as “MedPAC”) shall conduct a study on the adequacy and  
 7 accuracy of health-based risk adjustment methodologies  
 8 being developed and used by the Health Care Financing  
 9 Administration in the Medicare+Choice program.

10 (b) REPORT.—The Commission shall submit to Con-  
 11 gress by March 1, 2001, a report on the study under sub-  
 12 section (a) and shall include recommendations regarding  
 13 alternative risk adjustment methodologies that are less on-  
 14 erous.

15 **SEC. 511. MEDPAC REPORT ON MEDICARE MSA (MEDICAL**  
 16 **SAVINGS ACCOUNT) PLANS.**

17 Not later than 1 year after the date of the enactment  
 18 of this Act, the Medicare Payment Advisory Commission  
 19 shall submit to Congress a report on specific legislative  
 20 changes that should be made to make MSA plans a viable  
 21 option under the Medicare+Choice program.

22 **SEC. 512. MISCELLANEOUS CHANGES.**

23 (a) PERMITTING RELIGIOUS FRATERNAL BENEFIT  
 24 SOCIETIES TO OFFER A RANGE OF MEDICARE+CHOICE  
 25 PLANS.—Section 1859(e)(2)(A) (42 U.S.C. 1395w–

1 29(e)(2)(A)) is amended by striking “section  
 2 1851(a)(2)(A)” and inserting “section 1851(a)(2)”.

## 3 **Subtitle B—Other Managed Care** 4 **Provisions**

### 5 **SEC. 521. MEDICARE+CHOICE COMPETITIVE BIDDING DEM-** 6 **ONSTRATION PROJECT.**

7 Section 4011 of BBA is amended—

8 (1) in subsection (a)—

9 (A) by striking “The Secretary” and in-  
 10 serting the following:

11 “(1) IN GENERAL.—Subject to the succeeding  
 12 provisions of this subsection, the Secretary”; and

13 (B) by adding at the end the following:

14 “(2) DELAY IN IMPLEMENTATION.—The Sec-  
 15 retary shall not implement the project until January  
 16 1, 2002, or, if later, 6 months after the date the  
 17 Competitive Pricing Advisory Committee has sub-  
 18 mitted to Congress a report on each of the following  
 19 topics:

20 “(A) INCORPORATION OF ORIGINAL FEE-  
 21 FOR-SERVICE MEDICARE PROGRAM INTO  
 22 PROJECT.—What changes would be required in  
 23 the project to feasibly incorporate the original  
 24 fee-for-service medicare program into the

1 project in the areas in which the project is oper-  
2 ational.

3 “(B) QUALITY ACTIVITIES.—The nature  
4 and extent of the quality reporting and moni-  
5 toring activities that should be required of plans  
6 participating in the project, the estimated costs  
7 that plans will incur as a result of these re-  
8 quirements, and the current ability of the  
9 Health Care Financing Administration to col-  
10 lect and report comparable data, sufficient to  
11 support comparable quality reporting and moni-  
12 toring activities with respect to beneficiaries en-  
13 rolled in the original fee-for-service medicare  
14 program generally.

15 “(C) RURAL PROJECT.—The current via-  
16 bility of initiating a project site in a rural area,  
17 given the site specific budget neutrality require-  
18 ments of the project, and insofar as the Com-  
19 mittee decides that the addition of such a site  
20 is not viable, recommendations on how the  
21 project might best be changed so that such a  
22 site is viable.

23 “(D) BENEFIT STRUCTURE.—The nature  
24 and extent of the benefit structure that should  
25 be required of plans participating in the project,

1 the rationale for such benefit structure, the po-  
2 tential implications that any benefit standard-  
3 ization requirement may have on the number of  
4 plan choices available to a beneficiary in an  
5 area designated under the project, the potential  
6 implications of requiring participating plans to  
7 offer variations on any standardized benefit  
8 package the committee might recommend, such  
9 that a beneficiary could elect to pay a higher  
10 percentage of out-of-pocket costs in exchange  
11 for a lower premium (or premium rebate as the  
12 case may be), and the potential implications of  
13 expanding the project (in conjunction with the  
14 potential inclusion of the original fee-for-service  
15 medicare program) to require medicare supple-  
16 mental insurance plans operating in an area  
17 designated under the project to offer a coordi-  
18 nated and comparable standardized benefit  
19 package.

20 “(3) CONFORMING DEADLINES.—Any dates  
21 specified in the succeeding provisions of this section  
22 shall be delayed (as specified by the Secretary) in a  
23 manner consistent with the delay effected under  
24 paragraph (2).”; and

25 (2) in subsection (c)(1)(A)—

1 (A) by striking “and” at the end of clause  
 2 (i); and

3 (B) by adding at the end the following new  
 4 clause:

5 “(iii) establish beneficiary premiums  
 6 for plans offered in such area in a manner  
 7 such that a beneficiary who enrolls in an  
 8 offered plan with a below average price (as  
 9 established by the competitive pricing  
 10 methodology established for such area)  
 11 may, at the plan’s election, be offered a re-  
 12 bate of some or all of the medicare part B  
 13 premium that such individual must other-  
 14 wise pay in order to participate in a  
 15 Medicare+Choice plan under the  
 16 Medicare+Choice program; and”.

17 **SEC. 522. INAPPLICABILITY OF OASIS TO PACE.**

18 Sections 1894(e)(3) and 1934(e)(3) (42 U.S.C.  
 19 1395eee(e)(3); 1396u–4(e)(3)) are each amended by add-  
 20 ing at the end the following:

21 “(C) INAPPLICABILITY OF OASIS TO  
 22 PACE.—Notwithstanding the previous provisions  
 23 of this paragraph, with respect to any home  
 24 health service provided under a PACE program  
 25 under this section, the Secretary shall not apply

the data collection and reporting requirements under the Outcome and Assessment Information Set (OASIS) to such program or to any enrollee of such program, regardless of whether such service is provided by a PACE program directly or through a contract with a home health agency.”.

## **TITLE VI—MEDICAID**

### **SEC. 601. MAKING MEDICAID DSH TRANSITION RULE PERMANENT.**

(a) IN GENERAL.—Section 4721(e) of the Balanced Budget Act of 1997 (42 U.S.C. 1396r–4 note) is amended—

(1) in the matter before paragraph (1), by striking “1923(g)(2)(A)” and “1396r–4(g)(2)(A)” and inserting “1923(g)(2)” and “1396r–4(g)(2)”, respectively;

(2) in paragraphs (1) and (2)—

(A) by striking “, and before July 1, 1999”; and

(B) by striking “in such section” and inserting “in subparagraph (A) of such section”; and

(3) by striking “and” at the end of paragraph (1), by striking the period at the end of paragraph

1 (2) and inserting “; and”, and by adding at the end  
 2 the following new paragraph:

3 “(3) effective for State fiscal years that begin  
 4 on or after July 1, 1999, ‘or (b)(1)(B)’ were in-  
 5 serted in section 1923(g)(2)(B)(ii)(I) after  
 6 ‘(b)(1)(A)’.”.

7 (b) EFFECTIVE DATE.—The amendments made by  
 8 subsection (a) shall take effect as if included in the enact-  
 9 ment of section 4721(e) of the Balanced Budget Act of  
 10 1997 (Public Law 105–33; 110 Stat. 514).

11 **SEC. 602. INCREASE IN DSH ALLOTMENT FOR CERTAIN**  
 12 **STATES AND THE DISTRICT OF COLUMBIA.**

13 (a) IN GENERAL.—The table in section 1923(f)(2)  
 14 (42 U.S.C. 1396r–4(f)(2)) is amended under each of the  
 15 columns for FY 00, FY 01, and FY 02—

16 (1) in the entry for the District of Columbia, by  
 17 striking “23” and inserting “32”;

18 (2) in the entry for Minnesota, by striking “16”  
 19 and inserting “33”;

20 (3) in the entry for New Mexico, by striking  
 21 “5” and inserting “9”; and

22 (4) in the entry for Wyoming, by striking “0”  
 23 and inserting “.100”.

1 (b) EFFECTIVE DATE.—The amendments made by  
 2 subsection (a) take effect on October 1, 1999, and applies  
 3 to expenditures made on or after such date.

4 **SEC. 603. NEW PROSPECTIVE PAYMENT SYSTEM FOR FED-**  
 5 **ERALLY-QUALIFIED HEALTH CENTERS AND**  
 6 **RURAL HEALTH CLINICS.**

7 (a) IN GENERAL.—Section 1902(a) of the Social Se-  
 8 curity Act (42 U.S.C. 1396a(a)) is amended—

9 (1) in paragraph (13)—

10 (A) in subparagraph (A), by adding “and”  
 11 at the end;

12 (B) in subparagraph (B), by striking  
 13 “and” at the end; and

14 (C) by striking subparagraph (C); and

15 (2) by inserting after paragraph (14) the fol-  
 16 lowing new paragraph:

17 “(15) for payment for services described in  
 18 clause (B) or (C) of section 1905(a)(2) under the  
 19 plan in accordance with subsection (aa);”.

20 (b) NEW PROSPECTIVE PAYMENT SYSTEM.—Section  
 21 1902 of the Social Security Act (42 U.S.C. 1396a) is  
 22 amended by adding at the end the following:

23 “(aa) PAYMENT FOR SERVICES PROVIDED BY FED-  
 24 ERALLY-QUALIFIED HEALTH CENTERS AND RURAL  
 25 HEALTH CLINICS.—

1           “(1) IN GENERAL.—Beginning with fiscal year  
2           2000 and each succeeding fiscal year, the State plan  
3           shall provide for payment for services described in  
4           section 1905(a)(2)(C) furnished by a Federally-  
5           qualified health center and services described in sec-  
6           tion 1905(a)(2)(B) furnished by a rural health clinic  
7           in accordance with the provisions of this subsection.

8           “(2) FISCAL YEAR 2000.—Subject to paragraph  
9           (4), for services furnished during fiscal year 2000,  
10          the State plan shall provide for payment for such  
11          services in an amount (calculated on a per visit  
12          basis) that is equal to 100 percent of the costs of  
13          the center or clinic of furnishing such services dur-  
14          ing fiscal year 1999 which are reasonable and re-  
15          lated to the cost of furnishing such services, or  
16          based on such other tests of reasonableness as the  
17          Secretary prescribes in regulations under section  
18          1833(a)(3), or, in the case of services to which such  
19          regulations do not apply, the same methodology used  
20          under section 1833(a)(3), adjusted to take into ac-  
21          count any increase in the scope of such services fur-  
22          nished by the center or clinic during fiscal year  
23          2000.

24          “(3) FISCAL YEAR 2001 AND SUCCEEDING FIS-  
25          CAL YEARS.—Subject to paragraph (4), for services

1 furnished during fiscal year 2001 or a succeeding  
2 fiscal year, the State plan shall provide for payment  
3 for such services in an amount (calculated on a per  
4 visit basis) that is equal to the amount calculated for  
5 such services under this subsection for the preceding  
6 fiscal year—

7 “(A) increased by the percentage increase  
8 in the MEI (as defined in section 1842(i)(3))  
9 applicable to primary care services (as defined  
10 in section 1842(i)(4)) for that fiscal year; and

11 “(B) adjusted to take into account any in-  
12 crease in the scope of such services furnished by  
13 the center or clinic during that fiscal year.

14 “(4) ESTABLISHMENT OF INITIAL YEAR PAY-  
15 MENT AMOUNT FOR NEW CENTERS OR CLINICS.—In  
16 any case in which an entity first qualifies as a Fed-  
17 erally-qualified health center or rural health clinic  
18 after fiscal year 1999, the State plan shall provide  
19 for payment for services described in section  
20 1905(a)(2)(C) furnished by the center or services  
21 described in section 1905(a)(2)(B) furnished by the  
22 clinic in the first fiscal year in which the center or  
23 clinic so qualifies in an amount (calculated on a per  
24 visit basis) that is equal to 100 percent of the costs  
25 of furnishing such services during such fiscal year in

1 accordance with the regulations and methodology re-  
2 ferred to in paragraph (2). For each fiscal year fol-  
3 lowing the fiscal year in which the entity first quali-  
4 fies as a Federally-qualified health center or rural  
5 health clinic, the State plan shall provide for the  
6 payment amount to be calculated in accordance with  
7 paragraph (3).

8 “(5) ADMINISTRATION IN THE CASE OF MAN-  
9 AGED CARE.—In the case of services furnished by a  
10 Federally-qualified health center or rural health clin-  
11 ic pursuant to a contract between the center or clinic  
12 and a managed care entity (as defined in section  
13 1932(a)(1)(B)), the State plan shall provide for pay-  
14 ment to the center or clinic (at least quarterly) by  
15 the State of a supplemental payment equal to the  
16 amount (if any) by which the amount determined  
17 under paragraphs (2), (3), and (4) of this subsection  
18 exceeds the amount of the payments provided under  
19 the contract.

20 “(6) ALTERNATIVE PAYMENT METHODOLO-  
21 GIES.—Notwithstanding any other provision of this  
22 section, the State plan may provide for payment in  
23 any fiscal year to a Federally-qualified health center  
24 for services described in section 1905(a)(2)(C) or to  
25 a rural health clinic for services described in section

1       1905(a)(2)(B) in an amount which is determined  
2       under an alternative payment methodology that—

3               “(A) is agreed to by the State and the cen-  
4       ter or clinic; and

5               “(B) results in payment to the center or  
6       clinic of an amount which is at least equal to  
7       the amount otherwise required to be paid to the  
8       center or clinic under this section.”.

9       (c) CONFORMING AMENDMENTS.—

10           (1) Section 4712 of the Balanced Budget Act  
11       of 1997 (Public Law 105–33; 111 Stat. 508) is  
12       amended by striking subsection (c).

13           (2) Section 1915(b) of the Social Security Act  
14       (42 U.S.C. 1396n(b)) is amended by striking  
15       “1902(a)(13)(E)” and inserting “1902(a)(15),  
16       1902(aa),”.

17       (d) EFFECTIVE DATE.—The amendments made by  
18       this section take effect on October 1, 1999, and apply to  
19       services furnished on or after such date.

20       **SEC. 604. PARITY IN REIMBURSEMENT FOR CERTAIN UTILI-**  
21       **ZATION AND QUALITY CONTROL SERVICES.**

22       (a) IN GENERAL.—Section 1903(a)(3)(C)(i) (42  
23       U.S.C. 1396b(a)(3)(C)(i)) is amended—

24           (1) by inserting “(other than a review described  
25       in clause (ii))” after “quality review”; and

1           (2) by inserting “(or under a contract with the  
2       State that sets forth standards of performance  
3       equivalent to those under section 1902(d))” before  
4       the semicolon.

5       (b) EFFECTIVE DATE.—The amendments made by  
6       subsection (a) apply to expenditures made on and after  
7       the date of the enactment of this Act.

8       **TITLE VII—STATE CHILDREN’S**  
9       **HEALTH INSURANCE PRO-**  
10      **GRAM (SCHIP)**

11      **SEC. 701. STABILIZING THE SCHIP ALLOTMENT FORMULA.**

12      (a) IN GENERAL.—Section 2104(b) (42 U.S.C.  
13      1397dd(b)) is amended—

14           (1) in paragraph (2)(A)—

15               (A) in clause (i), by striking “through  
16               2000” and inserting “and 1999”; and

17               (B) in clause (ii), by striking “2001” and  
18               inserting “2000”;

19           (2) by amending paragraph (4) to read as fol-  
20      lows:

21           “(4) FLOORS AND CEILINGS IN STATE ALLOT-  
22      MENTS.—

23               “(A) IN GENERAL.—The proportion of the  
24               allotment under this subsection for a subsection

25               (b) State (as defined in subparagraph (D)) for

1           fiscal year 2000 and each fiscal year thereafter  
2           shall be subject to the following floors and ceil-  
3           ings:

4                   “(i) FLOOR OF \$2,000,000.—A floor  
5                   equal to \$2,000,000 divided by the total of  
6                   the amount available under this subsection  
7                   for all such allotments for the fiscal year.

8                   “(ii) ANNUAL FLOOR OF 10 PERCENT  
9                   BELOW PRECEDING FISCAL YEAR’S PRO-  
10                  PORTION.—A floor of 90 percent of the  
11                  proportion for the State for the preceding  
12                  fiscal year.

13                  “(iii) CUMULATIVE FLOOR OF 30 PER-  
14                  CENT BELOW THE FY 1999 PROPORTION.—  
15                  A floor of 70 percent of the proportion for  
16                  the State for fiscal year 1999.

17                  “(iv) CUMULATIVE CEILING OF 45  
18                  PERCENT ABOVE FY 1999 PROPORTION.—A  
19                  ceiling of 145 percent of the proportion for  
20                  the State for fiscal year 1999.

21                  “(B) RECONCILIATION.—

22                   “(i) ELIMINATION OF ANY DEFICIT BY  
23                   ESTABLISHING A PERCENTAGE INCREASE  
24                   CEILING FOR STATES WITH HIGHEST AN-  
25                   NUAL PERCENTAGE INCREASES.—To the

1 extent that the application of subpara-  
2 graph (A) would result in the sum of the  
3 proportions of the allotments for all sub-  
4 section (b) States exceeding 1.0, the Sec-  
5 retary shall establish a maximum percent-  
6 age increase in such proportions for all  
7 subsection (b) States for the fiscal year in  
8 a manner so that such sum equals 1.0.

9 “(ii) ALLOCATION OF SURPLUS  
10 THROUGH PRO RATA INCREASE.—To the  
11 extent that the application of subpara-  
12 graph (A) would result in the sum of the  
13 proportions of the allotments for all sub-  
14 section (b) States being less than 1.0, the  
15 proportions of such allotments (as com-  
16 puted before the application of floors under  
17 clauses (i), (ii), and (iii) of subparagraph  
18 (A)) for all subsection (b) States shall be  
19 increased in a pro rata manner (but not to  
20 exceed the ceiling established under sub-  
21 paragraph (A)(iv)) so that (after the appli-  
22 cation of such floors and ceiling) such sum  
23 equals 1.0.

24 “(C) CONSTRUCTION.—This paragraph  
25 shall not be construed as applying to (or taking

1           into account) amounts of allotments redistrib-  
2           uted under subsection (f).

3           “(D) DEFINITIONS.—In this paragraph:

4           “(i) PROPORTION OF ALLOTMENT.—

5           The term ‘proportion’ means, with respect  
6           to the allotment of a subsection (b) State  
7           for a fiscal year, the amount of the allot-  
8           ment of such State under this subsection  
9           for the fiscal year divided by the total of  
10          the amount available under this subsection  
11          for all such allotments for the fiscal year.

12          “(ii) SUBSECTION (b) STATE.—The  
13          term ‘subsection (b) State’ means one of  
14          the 50 States or the District of Colum-  
15          bia.”;

16          (3) in paragraph (2)(B), by striking “the fiscal  
17          year” and inserting “the calendar year in which  
18          such fiscal year begins”; and

19          (4) in paragraph (3)(B), by striking “the fiscal  
20          year involved” and inserting “the calendar year in  
21          which such fiscal year begins”.

22          (b) EFFECTIVE DATE.—The amendments made by  
23          this section apply to allotments determined under title  
24          XXI of the Social Security Act (42 U.S.C. 1397aa et seq.)  
25          for fiscal year 2000 and each fiscal year thereafter.

1 **SEC. 702. INCREASED ALLOTMENTS FOR TERRITORIES**  
2 **UNDER THE STATE CHILDREN'S HEALTH IN-**  
3 **SURANCE PROGRAM.**

4 Section 2104(c)(4)(B) (42 U.S.C. 1397dd(c)(4)(B))  
5 is amended by inserting “, \$34,200,000 for each of fiscal  
6 years 2000 and 2001, \$25,200,000 for each of fiscal years  
7 2002 through 2004, \$32,400,000 for each of fiscal years  
8 2005 and 2006, and \$40,000,000 for fiscal year 2007”  
9 before the period.

○